

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YUZHOU PENG,

Plaintiff,

v.

MICROSOFT CORPORATION and
LENOVO GROUP,

Defendant.

Case No. 2:19-cv-639- RAJ

ORDER

I. INTRODUCTION

This matter is before the Court *sua sponte*. For the reasons that follow, the Court DISMISSES the complaint with leave to amend and denies the pending motions for default judgment as moot.

II. BACKGROUND

On November 2, 2018, Yuzhou Peng filed the Complaint in the federal district court for the Southern District of New York. Dkt. # 2. The Complaint appears to allege Defendants Microsoft Corporation (“Microsoft”) and Lenovo Group (“Lenovo”) infringed Peng’s rights in a particular Chinese patent for a keyboard layout. *Id.* After Peng filed six amended complaints and a request to proceed *in forma pauperis*, the New York court sua sponte transferred the lawsuit to this district. Dkt. # 12. Magistrate Judge Theiler recommended that the Court deny Peng *in forma pauperis* status and screen the lawsuit under 28 U.S.C. § 1915(e)(2)(B). Dkt. # 22. Peng paid the filing fee and filed another

1 complaint June 17, 2019. Dkt. # 25. On June 24, 2019, Peng filed a “Proof of Summons
2 Service,” explaining he had “served” Microsoft at the email address msft@microsoft.com
3 and Lenovo at ir@lenovo.com. Dkt. # 29. Peng moved for default judgment claiming
4 that he also mailed a copy of the complaint and summons to the Defendants which he
5 claimed was received by each on July 8, 2019. Dkt. ## 31, 35. Peng claims that Microsoft
6 and Lenovo are infringing on several of his Chinese patents for computer keyboards. Dkt.
7 # 25.

8 III. DISCUSSION

9 The Court’s authority to grant *in forma pauperis* status derives from 28 U.S.C.
10 § 1915. The Court is required to dismiss an *in forma pauperis* plaintiff’s case if the Court
11 determines that “the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on
12 which relief may be granted; or (iii) seeks monetary relief against a defendant who is
13 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203
14 F.3d 1122, 1129 (9th Cir. 2000) (“[S]ection 1915(e) applies to all *in forma pauperis*
15 complaints, not just those filed by prisoners.”). A complaint is frivolous if it lacks a basis
16 in law or fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). A complaint fails
17 to state a claim if it does not “state a claim to relief that is plausible on its face.” *Bell Atl.*
18 *Corp. v. Twombly*, 550 U.S. 544, 568 (2007).

19 “The legal standard for dismissing a complaint for failure to state a claim under 28
20 U.S.C. § 1915(e)(2)(B)(ii) parallels that used when ruling on dismissal under Federal Rule
21 of Civil Procedure 12(b)(6).” *Day v. Florida*, No. 14-378-RSM, 2014 WL 1412302, at *4
22 (W.D. Wash. Apr. 10, 2014) (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6) permits a
23 court to dismiss a complaint for failure to state a claim. The rule requires the court to
24 assume the truth of the complaint’s factual allegations and credit all reasonable inferences
25 arising from those allegations. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007). The
26 plaintiff must point to factual allegations that “state a claim to relief that is plausible on its
27 face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007). Where a plaintiff proceeds

1 *pro se*, the court must construe the plaintiff's complaint liberally. *Johnson v. Lucent Techs.*
2 *Inc.*, 653 F.3d 1000, 1011 (9th Cir. 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th
3 Cir. 2010)).

4 Even though a Plaintiff pays the filing fee, the Court may consider an action for
5 dismissal under 28 U.S.C. § 1915. As is clear from the complaint, Peng fails to allege
6 sufficient facts upon which relief could be granted. None of the treaties to which the United
7 States is a party contemplate or allow U.S. courts to adjudicate the patents of a foreign
8 country. *See Voda v. Cordis Corp.*, 476 F.3d 887, 902 (Fed. Cir. 2007) (“[A] patent right
9 to exclude only arises from the legal right granted and recognized by the sovereign within
10 whose territory the right is located”). Peng also fails to state facts sufficient to demonstrate
11 any cause of action under U.S. patent or copyright law. Because leave to amend must be
12 granted with extreme liberality, Peng shall have fourteen days to amend.

13 IV. CONCLUSION

14 For the reasons stated above, the Court **DISMISSES** the complaint with leave to
15 amend and denies the pending motions for default judgment as moot. Dkt. ## 31, 35.

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17 DATED this 25th day of November, 2019.

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21 The Honorable Richard A. Jones
22 United States District Judge
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